

**IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

HUNTINGTON DIVISION

MILAN PUSKAR HEALTH RIGHT,
LAWSON KOEPPPEL,
ALINA LEMIRE, and
CARRIE WARE,

Plaintiffs,

v.

CIVIL ACTION NO. 3:21-0370

BILL J. CROUCH, in his official capacity as
Cabinet Secretary of the West Virginia
Department of Health and Human Resources,
JOLYNN MARRA, in her official capacity as
Interim Inspector General and Director of the
Office of Health Facility Licensure and Certification, and
STEVE HARRISON, in his official capacity as Clerk
of the House of Delegates and Keeper of the Rolls,

Defendants.

ORDER

Pending before the Court is Plaintiffs' Motion for Leave to File an Amended Complaint (ECF No. 18). Given that Plaintiffs are entitled to amend the Complaint once as a matter of course under Federal Rule of Civil Procedure 15, the Court **GRANTS** this motion. The Court also **GRANTS** Defendants' Motion for Leave to File Supplemental Exhibit (ECF No. 19) based on Plaintiffs' representation that the motion is unopposed.

Also pending before the Court is the Motion for Leave to File Amici Curiae Brief in support of Plaintiffs' Motion for Injunctive Relief (ECF No. 16). Although there is

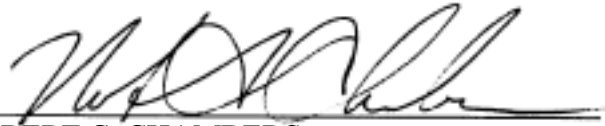
no federal rule or statute governing participation by amicus curiae at the district court level, *see Ohio Valley Env't Coal., Inc. v. McCarthy*, 313 F.R.D. 10, 32 (S.D.W. Va. 2015), a federal district court has the inherent authority to invite participation by amicus curiae to assist the court in its proceedings. Upon review of the motion and proposed brief, the Court finds that the amici have a legitimate interest in this matter and are qualified to provide information that is relevant to this Court's analysis on irreparable harm. Accordingly, the motion is **GRANTED**.

The Clerk is **DIRECTED** to docket the Amended Complaint (ECF No. 18-1), and Defendants' supplemental exhibit (ECF No. 19-1). The Brief of Amici Curiae has already been docketed (ECF No. 15).

Finally, in the interest of clarifying the scope of tomorrow's Preliminary Injunction Hearing, the Court **FINDS** that Plaintiffs are unlikely to succeed on the merits of Count I of the Amended Complaint, but only to the extent that it is premised on Senate Bill 334 being irreconcilable with House Bill 2500. The Court also **FINDS** that Plaintiffs are unlikely to succeed on the merits of Count IV of the Amended Complaint, which alleges violation of the expressive title requirement under the West Virginia Constitution.

The Clerk is further **DIRECTED** to send a copy of this Order to counsel of record and any unrepresented parties.

ENTER: July 7, 2021

A handwritten signature in black ink, appearing to read 'Robert C. Chambers', written over a horizontal line.

ROBERT C. CHAMBERS
UNITED STATES DISTRICT JUDGE